

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEBRASKA

LISSETTE LARIOS ROOHBAKHSH, as )  
personal representative of the )  
ESTATE OF FATIMA LISSETTE LARIOS )  
and on behalf of next of kin, ) Case No.  
) 8:17-cv-00031-  
and ) JFB-CRZ  
) )  
NELSON LARIOS, as next of kin )  
) )  
Plaintiffs, )  
) )  
v. )  
) )  
BOARD OF TRUSTEES OF THE NEBRASKA )  
STATE COLLEGES )  
) )  
and )  
) )  
) TAKEN IN BEHALF  
CHADRON STATE COLLEGE, ) OF THE  
) PLAINTIFFS  
Defendants. )

DEPOSITION OF JOEL SMITH, taken at  
10:20 a.m. on December 21, 2017, by Rachel McMenamin,  
CSR, RPR and General Notary Public in and for the  
State of Nebraska, at 1500 Woodmen Tower, 1700 Farnam  
Street, Omaha, Nebraska.

## INDEX

EXAMINATION: DIRECT CROSS REDIRECT RECROSS  
JOEL SMITH  
By Mr. Gould: 3  
By Mr. Johnson: 111

## EXHIBITS

Ex.	Pg.	Ref.
No.	No.	Description
30	25	Student Affairs, Nebraska State College System Policy: 3020
31	76	PowerPoint

APPEARANCES:

Mr. Martin D. Gould                      For Plaintiffs  
Attorney at Law  
**ROMANUCCI & BLANDIN, LLC**  
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Chicago, IL 60654

Mr. Thomas E. Johnson  
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ALSO PRESENT: Kimberly Brown

JOEL SMITH

Of lawful age, being first  
duly cautioned and solemnly  
sworn as hereinafter certified,  
was examined and testified as  
follows:

## DIRECT EXAMINATION

BY MR. GOULD:

Q Mr. Smith, can you please state and spell your full name for the record?

A Yeah. Joel Smith.

Q That's S-m-i-t-h?

A S-m-i-t-h, yes.

Q That was an easy one.

A Yeah.

Q Have you ever taken a deposition before?

A I have not, no.

Q Okay. Before we start, I'm going to go over some of the ground rules of the deposition so we're on the same page, okay?

A Sure.

Q So as you can see, we have a court reporter here. She's going to be transcribing everything that you say. For her sake, please wait until I finish asking my question before you give an answer.

A Certainly.

## DIRECT - SMITH (Gould)

Page 9	Page 11
<p>1 Q Is that a yes?</p> <p>2 A Yes.</p> <p>3 Q And you sent this to Shelley Dunbar --</p> <p>4 strike that.</p> <p>5 You forwarded an email to Shelley</p> <p>6 Dunbar -- strike that.</p> <p>7 You sent an email to Shelley Dunbar with</p> <p>8 an attachment --</p> <p>9 A With an attachment with the -- with the</p> <p>10 description.</p> <p>11 Q Mr. Smith, please let me finish the</p> <p>12 question.</p> <p>13 A Yes.</p> <p>14 Q And I understand what you're --</p> <p>15 A No, no.</p> <p>16 Q -- saying, but we're going to make her</p> <p>17 life very difficult.</p> <p>18 A Fair enough.</p> <p>19 Q Okay. So on November 4, 2014, at</p> <p>20 8:15 a.m., you sent Shelley Dunbar an email with an</p> <p>21 attachment titled Title IX issue?</p> <p>22 A Yes.</p> <p>23 Q Okay. And the attachment included a</p> <p>24 document with a heading that said Chadron State</p> <p>25 College; correct?</p>	<p>1 A Yes, I did receive that.</p> <p>2 Q Are you aware of any other emails that you</p> <p>3 were copied on or that you sent or received</p> <p>4 pertaining to Fatima Larios?</p> <p>5 A No.</p> <p>6 Q Okay. We'll address these email -- emails</p> <p>7 a little bit later in the dep. I just want to go</p> <p>8 over some of your background information, your</p> <p>9 employment information.</p> <p>10 A Okay.</p> <p>11 Q And then we'll -- we'll start talking</p> <p>12 about some of the emails, okay?</p> <p>13 A Uh-huh.</p> <p>14 Q Is that a yes?</p> <p>15 A That's a yes.</p> <p>16 Q How old are you, sir?</p> <p>17 A I'm fifty-nine years old.</p> <p>18 Q Okay. Where did you attend high school?</p> <p>19 A Westminster High School in Westminster,</p> <p>20 Colorado.</p> <p>21 Q What year did you graduate?</p> <p>22 A 1977.</p> <p>23 Q Did you receive any secondary education?</p> <p>24 A I did.</p> <p>25 Q Where was that?</p>
Page 10	Page 12
<p>1 A Yes.</p> <p>2 Q Can you tell me, where did you get this</p> <p>3 document from?</p> <p>4 A I created the document, put it on the --</p> <p>5 on the letterhead.</p> <p>6 Q Okay. And then you -- you saved it on</p> <p>7 your computer, and you sent it to Shelley Dunbar?</p> <p>8 A That's correct.</p> <p>9 Q Did you also receive this email as part of</p> <p>10 Exhibit 28, it's CSC 173?</p> <p>11 A I did receive that email.</p> <p>12 Q Okay. And then you also received an email</p> <p>13 from Shelley Dunbar on November 6, 2014, at</p> <p>14 4:31 p.m., and we've Bates stamped it CSC 175; is</p> <p>15 that right?</p> <p>16 A Yeah. I was copied on that one.</p> <p>17 Q And then you were also copied on another</p> <p>18 email sent on Wednesday, November 5, 2014, at 2 p.m.</p> <p>19 sent by Shelley Dunbar; correct?</p> <p>20 MR. JOHNSON: What's the Bates number on</p> <p>21 that?</p> <p>22 MR. GOULD: CSC --</p> <p>23 MR. JOHNSON: 176.</p> <p>24 THE WITNESS: 176.</p> <p>25 MR. GOULD: -- 176.</p>	<p>1 A I got my bachelor's degree at Metropolitan</p> <p>2 State College of Denver.</p> <p>3 Q Did you graduate?</p> <p>4 A I did. And I have a master's degree from</p> <p>5 Regis University.</p> <p>6 Q Okay. What year did you graduate?</p> <p>7 A 19 -- that's a good question -- 83, I</p> <p>8 believe it was.</p> <p>9 Q And then you said you had a master's</p> <p>10 degree as well; correct?</p> <p>11 A Yeah. I have a master's degree from Regis</p> <p>12 University.</p> <p>13 Q What was your master's in?</p> <p>14 A It was in management.</p> <p>15 Q And what was your BA in?</p> <p>16 A History and marketing.</p> <p>17 Q Your master's was in -- strike that.</p> <p>18 Was it -- your master's was a</p> <p>19 management -- any specific subject or just</p> <p>20 management?</p> <p>21 A Quality management.</p> <p>22 Q So is that for businesses --</p> <p>23 A Yeah.</p> <p>24 Q Let me --</p> <p>25 A Yeah.</p>

3 (Pages 9 to 12)

## DIRECT - SMITH (Gould)

Page 13	Page 15
<p>1 Q Mr. Smith, I know you know the answer, 2 just let me finish asking the question, okay? 3 A Fair enough. 4 Q Can you explain to me what was -- what did 5 quality management pertain to? 6 A It's -- it was a term that was happening 7 in the '90s. Demming was the -- the guy who was one 8 of the leaders in it and trying to do 360 9 evaluations of things and better inclusion of 10 personnel and that kind of stuff and a different way 11 of managing things that was more inclusive. 12 Q So it was, like, a mix of human resources? 13 A No, it was -- it was at all levels of 14 stuff. It had levels of production, and it also 15 was, you know, how you gather information to make 16 processes better and get information and feedback 17 from people and -- 18 Q And what -- what year did you graduate 19 from your master's program? 20 A 1996. 21 Q And what year were you hired by Chadron 22 State College? 23 A 2013. 24 Q And what position were you hired for? 25 A Director of Athletics.</p>	<p>1 job at Chadron. 2 Q So you were the Commissioner of the Rocky 3 Mountain -- Mountain Athletic Conference from 2001 4 to 2013? 5 A That's correct. 6 Q Okay. What were your job responsibilities 7 as an Assistant Athletic Director at Metropolitan 8 State College? 9 A Oh, boy, I did a lot of things. So I -- I 10 was in charge of compliance, I was the fund-raiser, 11 I was the events manager, I scheduled transportation 12 and vehicles, maintained them. I guess that's 13 probably pretty much it. 14 Q Anything pertaining to, like, the safety 15 of students or -- strike that. 16 Were you in charge of anything in terms 17 of -- strike that. 18 When you said "compliance," is that 19 compliance with school -- 20 A It's -- 21 Q When you say "compliance," was that 22 compliance with school policies and procedures? 23 A NCAA compliance. 24 Q What about school policies and procedures 25 as they pertain to athletes?</p>
Page 14	Page 16
<p>1 Q Can you briefly go over the history of 2 your employment prior to 2013 -- 3 A Sure. 4 Q -- chronologically? 5 A Okay. 6 Q So you can just give me, you know, between 7 this year and that year I was a teacher at so and so 8 school, between that year and that year I worked at 9 ConAgra. 10 A Okay. Great. From 1985 until 1996, I was 11 the Assistant Athletic Director at Metropolitan 12 State College at Denver. 13 Q At Metropolitan? 14 A State College of Denver. 15 Q That makes it easier for me. 16 A Yeah. In 1996, I took the job as the 17 Director of Athletics at Fort Lewis College. 18 Q Is that in St. Louis, Missouri? 19 A No, actually, it's in Durango, Colorado. 20 And then in 2001, I became the Commissioner of the 21 Rocky Mountain Athletic Conference. 22 Q Hold on. Commissioner of -- 23 A The Rocky Mountain Athletic Conference. 24 Q Okay. 25 A And I served in that role until I took the</p>	<p>1 A Not necessarily, but I obviously had to 2 live under them, so -- 3 Q I'm sorry, what -- can you say that again? 4 You said "unnecessarily"? 5 A I -- I wasn't responsible to give that 6 information to student-athletes, but we all worked 7 under whatever rules were -- you know, were under 8 employment then. 9 Q So if you were made aware of a policy 10 violation, were you required to report to somebody? 11 MR. JOHNSON: Object, foundation. 12 A Yeah. 13 Q But it wasn't your responsibility to 14 investigate or discipline that student-athlete; 15 right? 16 A No. 17 Q What were your job responsibilities as the 18 Director of Athletics for St. Louis College? 19 A Fort Lewis. 20 Q Fort Lewis. 21 A I was overall in charge of 13 sports and 22 about 300 athletes. I did fund-raising, event 23 management, facilities stuff, and oversaw the staff. 24 Q When you say you were in charge of 300 25 athletes, were you also in charge, in part, for</p>

4 (Pages 13 to 16)

## DIRECT - SMITH (Gould)

Page 25	Page 27
<p>1 going to mark as 30. 2 (Deposition Exhibit Number 30 was marked 3 for identification.) 4 MR. GOULD: I know we've already marked 5 Policy 3020, but this one's got a date on it, so I'm 6 going to use this one right now. 7 MR. JOHNSON: Do you have a copy? 8 MR. GOULD: Yeah, I do. 9 BY MR. GOULD: 10 Q Mr. Smith, is that the Policy 3020 that 11 you were provided as an athletic director at Chadron 12 State College? 13 A I believe so. 14 Q Can you just read the -- the definition 15 section to yourself? 16 A About dating violence? 17 Q Yeah. 18 A Do you want me to read it out loud? 19 Q No, no, just to yourself. 20 A Okay. 21 Q Title -- strike that. 22 Is it your understanding that -- strike 23 that. 24 Back in November 2014, was it your 25 understanding that domestic violence and dating</p>	<p>1 A Yes. 2 Q Do you know who Fatima Larios is? 3 A I am aware of who she is now. At the 4 time, I did not. 5 Q On November 3, 2014, were you made -- made 6 aware that Fatima Larios was a softball player at 7 Chadron State College? 8 A Yes. 9 Q Okay. And were you also made aware that 10 the person suspected of physically or 11 psychologically abusing her was a football player at 12 Chadron State College? 13 MR. JOHNSON: Object to the form of the 14 question. You may answer. 15 A No, because the discussion was only 16 that -- that some of the kids had seen some physical 17 stuff. They did say that she was dating a football 18 player, but they -- all they said was that they had 19 seen some funny behavior on her part. 20 Q Can you tell me, what did Rob Stack tell 21 you on November 3, 2014, regarding his concerns 22 about Fatima Larios' safety and well-being? 23 MR. JOHNSON: Object to the form of the 24 question, foundation. 25 A And I don't recall the conversation,</p>
Page 26	Page 28
<p>1 violence was covered under Title IX? 2 A It was my understanding that if I knew of 3 something like that, I would report it to the 4 Title IX Director. 5 Q And -- and -- strike that. 6 On November 3, 2014, Coach Rob Stack 7 reached out to you regarding concerns he had about 8 one of his softball player's well-being and safety; 9 right? 10 A Uh-huh. 11 MR. JOHNSON: Object to the form of the 12 question. 13 Q Is that a yes? 14 A That's a yes. 15 Q Okay. Was -- did Rob Stack reach out to 16 you in person or through -- via cell phone or email? 17 A He came to my office. 18 Q Okay. Did Coach Stack come to your office 19 with Assistant coach Aryn Grywusiewicz? 20 A No. 21 Q Was November 3, 2014, the first time you 22 had heard about potential dating violence or 23 domestic violence situation involving Fatima Larios 24 and Brandon Finona? 25 MR. JOHNSON: Object to the form.</p>	<p>1 except for that there was -- that -- that two of the 2 players had come to Aryn and -- and said that they 3 were concerned about her, that she was acting 4 strangely in practices, and he advised me how we 5 should handle that, and I advised him that we should 6 send it to the Title IX person and let them deal 7 with it. 8 Q So the best -- to the best of your 9 recollection, Coach Stack just told you that two of 10 the players had told him and the assistant coach 11 that Fatima Larios was acting strangely? 12 A I believe the way he put it was that 13 they -- the two players told Aryn and then Aryn 14 brought it up to Rob. 15 Q That Fatima Larios was acting strangely? 16 A Yes. 17 Q Did -- did you ever meet with Aryn 18 Grywusiewicz? 19 A No. 20 Q Was the only face-to-face meeting you had 21 with Rob Stack on November 3, 2014, in regards to 22 the issue with Fatima Larios and -- strike that. 23 Did you end up reaching out to the 24 Title IX Coordinator to handle the situation? 25 A I went over to her office and discussed it</p>

7 (Pages 25 to 28)

## DIRECT - SMITH (Gould)

Page 29	Page 31
<p>1 with her, and we discussed having -- putting</p> <p>2 together the letter that we -- that I sent the next</p> <p>3 day.</p> <p>4 Q So at 7:50 a.m. on November 3, 2014, Rob</p> <p>5 Stack approached you about his concerns about Fatima</p> <p>6 Larios' safety and well-being; right?</p> <p>7 A Uh-huh.</p> <p>8 MR. JOHNSON: Object to the form.</p> <p>9 Q Is that a yes?</p> <p>10 A Yes.</p> <p>11 Q Later on that same morning, you went</p> <p>12 directly to Shelley Dunbar to discuss the issue;</p> <p>13 correct?</p> <p>14 A I don't remember the -- the time or the</p> <p>15 day, but that day I did, I went and talked to her</p> <p>16 with it.</p> <p>17 Q And if your note says I took this</p> <p>18 information to Shelley Dunbar on the morning of</p> <p>19 November 3?</p> <p>20 A Uh-huh, so that may have been that I did</p> <p>21 it right after that happened, then, yeah.</p> <p>22 Q There would be no reason to be that you --</p> <p>23 you didn't take it -- take that information to</p> <p>24 Shelley Dunbar on the morning of November 3; right?</p> <p>25 A That's correct.</p>	<p>1 your -- strike that.</p> <p>2 As an athletic director at Chadron State</p> <p>3 College, was it your responsibility to investigate</p> <p>4 potential Title IX violations?</p> <p>5 A No.</p> <p>6 Q You never had any training on how to</p> <p>7 investigate Title IX investigations; correct?</p> <p>8 A No.</p> <p>9 Q You didn't know what was required of you</p> <p>10 in terms of an investigation into a Title IX</p> <p>11 investigation?</p> <p>12 A No.</p> <p>13 Q Strike that.</p> <p>14 The reason that you titled your attachment</p> <p>15 to Shelley Dunbar on November 3, 2014, as Title IX</p> <p>16 issue is because you believed based off of what you</p> <p>17 had heard from Coach Stack that what was going on</p> <p>18 with Fatima Larios involved a potential Title IX</p> <p>19 violation; correct?</p> <p>20 A As -- in my role of reporting some -- when</p> <p>21 there's information, I felt that I had to report</p> <p>22 that information to him. I don't -- I didn't</p> <p>23 investigate to find out whether that was -- whether</p> <p>24 it was a violation or not.</p> <p>25 Q Sure. And that's not your role --</p>
Page 30	Page 32
<p>1 Q Okay. Now, you -- did you send this email</p> <p>2 to Shelley Dunbar after you had already spoken to</p> <p>3 her on November 3 or before you had spoken to her on</p> <p>4 November 3?</p> <p>5 A After I spoke to her.</p> <p>6 Q So the morning of November 3, Shelley</p> <p>7 Dunbar was already made aware of this potential</p> <p>8 Title IX violation involving Fatima Larios; correct?</p> <p>9 A Yes, I -- based on what I noted there,</p> <p>10 yes.</p> <p>11 Q Okay. Is there a reason why you, then,</p> <p>12 also typed up this memo and sent it to Shelley</p> <p>13 Dunbar after she had already been made aware of the</p> <p>14 situation?</p> <p>15 A She -- she asked to have a document</p> <p>16 that --</p> <p>17 Q Okay.</p> <p>18 A -- that we had had a conversation.</p> <p>19 Q And did you send this memo to Shelley</p> <p>20 Dunbar in part because it was your understanding</p> <p>21 that it was Shelley Dunbar's responsibility to</p> <p>22 investigate and respond to this potential Title IX</p> <p>23 violation?</p> <p>24 A That's correct.</p> <p>25 Q So as an athletic director, it wasn't</p>	<p>1 A No.</p> <p>2 Q -- as -- that's not your role as an</p> <p>3 athletic director; correct?</p> <p>4 A That's correct.</p> <p>5 Q You're not responsible for determining</p> <p>6 whether or not there was a Title IX violation or</p> <p>7 there wasn't; right?</p> <p>8 A That's correct.</p> <p>9 Q And the reason that you titled the</p> <p>10 attachment Title IX issue was because, from your</p> <p>11 understanding, the issue involving Fatima Larios</p> <p>12 involved dating violence or domestic violence;</p> <p>13 right?</p> <p>14 MR. JOHNSON: Object to the form.</p> <p>15 A I'm not aware why I -- I did that. I</p> <p>16 think I probably just did it for simplicity knowing</p> <p>17 it was going to Shelley, so -- and to keep it in my</p> <p>18 filing system under it, so --</p> <p>19 Q How did you know that it was going to</p> <p>20 be -- that -- strike that.</p> <p>21 What types of offenses does Shelley -- is</p> <p>22 Shelley Dunbar responsible for investigating as</p> <p>23 Title IX Coordinator?</p> <p>24 MR. JOHNSON: Object, foundation.</p> <p>25 A You know, I don't -- I don't know.</p>

8 (Pages 29 to 32)

## DIRECT - SMITH (Gould)

Page 37	Page 39
<p>1 A No.</p> <p>2 Q Was -- were you sending -- were you</p> <p>3 sending an email to Shelley Dunbar because you</p> <p>4 believed that Fatima Larios and Brandon Finona</p> <p>5 needed counseling on their dating issues?</p> <p>6 MR. JOHNSON: Object to form.</p> <p>7 A I did not have enough information to know</p> <p>8 that one way or the other, so no.</p> <p>9 Q Did you -- when you spoke with Coach</p> <p>10 Stack, did he say anything about the fact that he</p> <p>11 believed or other players believed Fatima was</p> <p>12 getting beaten by Brandon Finona?</p> <p>13 A No.</p> <p>14 MR. JOHNSON: Object, foundation.</p> <p>15 Q Did Coach Stack ever tell you that he or</p> <p>16 the other coaches or players believed that Fatima</p> <p>17 Larios was being psychologically abused by Brandon</p> <p>18 Finona?</p> <p>19 MR. JOHNSON: Object, foundation.</p> <p>20 A No.</p> <p>21 Q So all you were made aware of was that</p> <p>22 there was -- was that -- strike that.</p> <p>23 Just so I'm clear here --</p> <p>24 A Uh-huh.</p> <p>25 Q -- the only thing you were made aware of</p>	<p>1 safety and well-being; correct?</p> <p>2 A No.</p> <p>3 MR. JOHNSON: Object, form and foundation.</p> <p>4 Please take a break and let me make my objections.</p> <p>5 THE WITNESS: Sure.</p> <p>6 MR. JOHNSON: Thanks. Go ahead.</p> <p>7 A I was not aware of that, that they -- that</p> <p>8 they had made that decision.</p> <p>9 Q So you said that they took -- Coach Stack</p> <p>10 took his concerns to you about -- or Coach Stack</p> <p>11 approached you regarding his concerns about Fatima</p> <p>12 Larios; right?</p> <p>13 A Uh-huh.</p> <p>14 MR. JOHNSON: Object to the form of the</p> <p>15 question.</p> <p>16 A Yes.</p> <p>17 Q Okay. What concerns are you specifically</p> <p>18 referring to?</p> <p>19 MR. JOHNSON: Object, foundation.</p> <p>20 A The -- the fact that she was acting</p> <p>21 strangely and that she was covering herself and that</p> <p>22 the kids were concerned about her.</p> <p>23 Q And you never asked the follow-up question</p> <p>24 as to what specifically were the other players or</p> <p>25 coaches concerned about?</p>
Page 38	Page 40
<p>1 by Coach Stack was, one, Fatima was acting</p> <p>2 strangely, and two, she was wearing long-sleeved</p> <p>3 shirts when she likely should not have been?</p> <p>4 MR. JOHNSON: Object, foundation.</p> <p>5 Q Is that correct?</p> <p>6 A Yes.</p> <p>7 Q Okay. Did you ever ask Coach Stack what</p> <p>8 he meant when he said she was acting strangely?</p> <p>9 A No.</p> <p>10 Q Okay. Were you not interested -- strike</p> <p>11 that.</p> <p>12 What did you under -- what did you believe</p> <p>13 he meant when he said Fatima was acting strangely?</p> <p>14 A I -- I --</p> <p>15 MR. JOHNSON: Foundation.</p> <p>16 A I wasn't aware. I -- as he brought the</p> <p>17 information to me from Aryn, there was a -- there</p> <p>18 was a tenor that there was a concern about what was</p> <p>19 happening with Fatima. And when that happened, the</p> <p>20 first thing that I thought of was to -- to give it</p> <p>21 to the Title IX Coordinator so they can investigate</p> <p>22 it.</p> <p>23 Q So on November 3, 2014, it became clear to</p> <p>24 you that Coach Stack and Coach Aryn Grywusiewicz</p> <p>25 were concerned for Fatima Larios and Fatima Larios'</p>	<p>1 A No.</p> <p>2 Q Okay. Was it because you -- you didn't</p> <p>3 care at that point in time?</p> <p>4 A It had nothing to do with whether I cared</p> <p>5 or not. It had everything to do that I felt like at</p> <p>6 that time it was time to give that to the Title IX</p> <p>7 Coordinator --</p> <p>8 Q Sure.</p> <p>9 A -- and let her investigate what was going</p> <p>10 on so it's fair for both sides.</p> <p>11 Q So on November 3, 2014, did you ever ask</p> <p>12 Rob Stack what -- what -- what he and Coach Aryn</p> <p>13 Grywusiewicz believed Fatima was doing when she was</p> <p>14 wearing long-sleeved shirts?</p> <p>15 A No.</p> <p>16 Q Did you ever ask -- did he ever mention to</p> <p>17 you that they saw bruises unrelated to softball on</p> <p>18 Fatima's body?</p> <p>19 A No.</p> <p>20 Q Okay. And on November 3, 2014, it's your</p> <p>21 testimony that Rob Stack never mentioned to you that</p> <p>22 he, the players on his team or other coaches</p> <p>23 believed Fatima Larios was being beaten or struck by</p> <p>24 another student-athlete on campus; correct?</p> <p>25 MR. JOHNSON: Object, foundation.</p>

10 (Pages 37 to 40)



## DIRECT - SMITH (Gould)

<p style="text-align: right;">Page 49</p> <p>1 Q And if they're not passing their classes, 2 who does she report that to? 3 A Both me and to the -- actually, she 4 reports it to a compliance team of faculty members 5 that we have and then to the head coach. 6 Q Okay. And if a student -- is there -- 7 strike that. 8 What is the requisite GPA that a 9 student-athlete needs to be able to participate in 10 sports? 11 A At that time it was 2.0 and they had to 12 pass a minimum of 6 credit hours. 13 Q And if they don't get a 2.0, what happens? 14 A Then they would be ineligible for the next 15 semester. In this case where the sport is in the 16 spring, then she would have lost her eligibility. 17 Q And who has the conversation with the 18 student to explain to them that they can't 19 participate in athletics until their GPA goes up? 20 A Usually the compliance person along with 21 the coach. 22 Q Are you involved in that conversation? 23 A No, not necessarily. 24 Q Do you ever look into why a student's 25 grade may be falling?</p>	<p style="text-align: right;">Page 51</p> <p>1 questions -- strike that. 2 If you have a student -- student-athlete 3 who's -- isn't meeting the requisite GPA passing of 4 classes, does the committee ever look into whether 5 there's personnel problems that are affecting his 6 ability to focus or do work? 7 A No. I would say that probably is the 8 coach -- coach might have some knowledge base about 9 that because they would be the first direct contact 10 point with a student-athlete. 11 Q So do you expect coaches to be familiar 12 with students' personal lives if there's problems 13 that are affecting their ability to do work at 14 school? 15 A Yeah, I think that their coaches have a 16 vested interest in making sure that their kids are 17 being successful in academics. So yeah, I think our 18 coaches would want to know what the academics are of 19 a student-athlete. 20 MR. JOHNSON: I need to take a break when 21 you get to a good point. 22 Q I'm sorry, was the only conversation you 23 had in person with anybody about the Fatima Larios 24 potential Title IX violation in November 2014 the 25 conversation you had with Shelley Dunbar in person?</p>
<p style="text-align: right;">Page 50</p> <p>1 A Yeah, we talk about it as a whole along 2 with our compliance team, and we don't have a ton of 3 those issues, but the issues that we have, we do 4 talk about. 5 Q When you say "we talk about it," is there, 6 like, a committee of people that talk about why a 7 student's grades are falling? 8 A We have a compliance team of people from 9 the registrar's office, the financial aid office, 10 faculty members, our faculty athletic rep, and 11 that's part of our dialogue -- ongoing dialogue is 12 to talk about challenges that kids have with 13 academics. 14 Q And are you involved in those 15 conversations? 16 A I am. 17 Q Have you ever had a -- have you ever had 18 meetings where you were asking questions as to why a 19 student's grades were falling? 20 A Only in the general sense is if there's a 21 concern about specific classes that they're taking 22 or majors that they're having, then I imagine we've 23 had a dialogue about that, but specifically to any 24 particular athlete, not with that committee, no. 25 Q Did you ever -- do you ever ask</p>	<p style="text-align: right;">Page 52</p> <p>1 MR. JOHNSON: Object, form, foundation. 2 A Yes. 3 Q Okay. Every other communication you had 4 was simply an email that you were cc'd on; right? 5 A Uh-huh. 6 Q Is that a yes? 7 A Yes. 8 Q You never spoke with Shelley Dunbar in 9 person after you had reported Coach Stack's concerns 10 on November 3, 2014; right? 11 A I don't recall whether we did or not. We 12 may have, but I don't recall it. 13 Q And then did you -- you never followed up 14 with Coach Stack or Assistant Coach Aryn 15 Grywusiewicz after November 3, 2014, to see how 16 Fatima Larios was doing; right? 17 A I -- I had -- in my general meetings with 18 Rob, I had discussions about how she was doing, 19 especially after she responded that she didn't want 20 any help from Title IX, and I encouraged Rob to 21 continue to monitor her. 22 Q Okay. After a conversation with Rob Stack 23 on November 3, 2014, did you know one way or the 24 other whether the players' concerns were that Fatima 25 Larios was raped?</p>

13 (Pages 49 to 52)

## DIRECT - SMITH (Gould)

<p style="text-align: right;">Page 53</p> <p>1 A No.</p> <p>2 Q You didn't know -- so as far as you know,</p> <p>3 she could have been raped, or she -- or she wasn't</p> <p>4 raped?</p> <p>5 A I have no idea.</p> <p>6 MR. JOHNSON: Object, form of the</p> <p>7 question, foundation. You may answer.</p> <p>8 Q And you never asked any questions as to</p> <p>9 whether the concerns involved a sexual assault or a</p> <p>10 sexual rape; right?</p> <p>11 A I was unaware of any of that.</p> <p>12 Q And you never asked Rob Stack those</p> <p>13 questions; correct?</p> <p>14 A No.</p> <p>15 Q Okay. Did you ever ask Rob Stack whether</p> <p>16 there was any problems going on with Fatima's family</p> <p>17 such as a recent death in the family?</p> <p>18 A No.</p> <p>19 Q Did you ever ask Rob Stack whether he was</p> <p>20 aware of any -- anything that was affecting Fatima</p> <p>21 Larios' personal life that could be causing her to</p> <p>22 act strangely?</p> <p>23 A No.</p> <p>24 Q Is it fair to say that Rob Stack's --</p> <p>25 strike that.</p>	<p style="text-align: right;">Page 55</p> <p>1 Q So as far as you knew after your meeting</p> <p>2 with Rob Stack -- strike that.</p> <p>3 Is it fair to say that all you knew after</p> <p>4 your meeting with Rob Stack was simply that Fatima</p> <p>5 Larios had a boyfriend; right?</p> <p>6 MR. JOHNSON: Object, form of the</p> <p>7 question.</p> <p>8 A No. I knew that there were concerns about</p> <p>9 her behavior and -- and what she was covering</p> <p>10 herself with and that a couple players had some</p> <p>11 concerns about her.</p> <p>12 Q Okay.</p> <p>13 A I knew that.</p> <p>14 Q Specific to the boyfriend, when you heard</p> <p>15 that Fatima Larios had a boyfriend, you didn't know</p> <p>16 whether that boyfriend was having a positive or a</p> <p>17 negative impact on Fatima's life; right?</p> <p>18 A No, I did not know.</p> <p>19 Q Okay. Did you ever ask Rob Stack whether</p> <p>20 the boyfriend was a student at Chadron State</p> <p>21 College?</p> <p>22 A I don't recall.</p> <p>23 Q Did you ever --</p> <p>24 A I think -- I think they told me he was a</p> <p>25 football player, so I made the assumption he was a</p>
<p style="text-align: right;">Page 54</p> <p>1 Is it fair to say when Rob Stack spoke to</p> <p>2 you, he spoke in generalities?</p> <p>3 MR. JOHNSON: Object to the form of the</p> <p>4 question and foundation.</p> <p>5 A I -- generalities, I'm not sure if I</p> <p>6 understand the -- the concept that you're trying to</p> <p>7 get to.</p> <p>8 Q Sure. And I guess what I'm getting at is</p> <p>9 it seems like there was -- you didn't -- when you</p> <p>10 left that meeting with Rob Stack, you didn't -- you</p> <p>11 didn't fully understand what the specific concerns</p> <p>12 were or what the specific allegations were; right?</p> <p>13 A That's correct.</p> <p>14 Q Okay. The only thing you really knew is</p> <p>15 that the coaches had some sort of concern?</p> <p>16 A Concern.</p> <p>17 Q You didn't know whether it involved</p> <p>18 academics, sexual abuse, or physical abuse; right?</p> <p>19 A No.</p> <p>20 Q You didn't know one way or the other?</p> <p>21 A No. I think there was a -- in the</p> <p>22 dialogue, there was a discussion about the boyfriend</p> <p>23 because the boyfriend came up somehow, but I don't</p> <p>24 know -- I think that was just that she was dating a</p> <p>25 football player.</p>	<p style="text-align: right;">Page 56</p> <p>1 student.</p> <p>2 Q And you didn't know whether there was</p> <p>3 concerns that the football player boyfriend was</p> <p>4 harming Fatima?</p> <p>5 A None.</p> <p>6 MR. JOHNSON: Okay. We're going to take a</p> <p>7 break. I've got to go to the restroom.</p> <p>8 (A short recess was taken.)</p> <p>9 BY MR. GOULD:</p> <p>10 Q Mr. Smith, it's your testimony today that</p> <p>11 after your meeting with Coach Stack on November 3,</p> <p>12 2014, you didn't know whether Fatima Larios was</p> <p>13 suspected of acting strangely because she had a</p> <p>14 death in the family or because another student was</p> <p>15 physically or psychologically abusing her; is that</p> <p>16 right?</p> <p>17 A I didn't have any idea that that was</p> <p>18 happening except for that there was something about</p> <p>19 the boyfriend and the kids were concerned about her.</p> <p>20 Q Okay. But you didn't know whether it</p> <p>21 could -- whether it was something that happened in</p> <p>22 her family or whether it was from another student;</p> <p>23 right?</p> <p>24 A I don't know.</p> <p>25 Q And you never asked any questions to Rob</p>

14 (Pages 53 to 56)



## DIRECT - SMITH (Gould)

Page 57	Page 59
<p>1 Stack as to what he thought was going on with Fatima</p> <p>2 Larios; correct?</p> <p>3 A No.</p> <p>4 Q Can you tell me why you didn't ask any</p> <p>5 follow-up questions to Rob Stack?</p> <p>6 A I didn't think it was my duty to do that.</p> <p>7 That's the Title IX Coordinator's job. Rob was also</p> <p>8 giving me second-hand information. He didn't know</p> <p>9 the initial information. It was coming from Aryn,</p> <p>10 and so I felt like the best thing to do was get it</p> <p>11 in the hands of the Title IX Coordinator so they get</p> <p>12 the right information.</p> <p>13 Q And you -- at no point in time prior to</p> <p>14 January 31, 2015, did you ever ask to interview any</p> <p>15 of the students -- student-athletes that were</p> <p>16 reporting their concerns about Fatima Larios; right?</p> <p>17 A No.</p> <p>18 Q And at no point in time did you personally</p> <p>19 reach out to Aryn Grywusiewicz to find out what she</p> <p>20 had known about potential problems or safety issues</p> <p>21 or concerns they had with Fatima Larios; right?</p> <p>22 A Not that I recall.</p> <p>23 Q Did you ever reach out to anyone from the</p> <p>24 dorms or from the -- the Housing Department --</p> <p>25 A No.</p>	<p>1 Q You were aware of that?</p> <p>2 A I -- I didn't know that they did it on</p> <p>3 that. I know they do that.</p> <p>4 Q Okay. What was your understanding as to</p> <p>5 what -- as to why RAs were filling out observation</p> <p>6 notes?</p> <p>7 A I have no idea.</p> <p>8 MR. JOHNSON: Object, foundation.</p> <p>9 A I have no idea that they did it. I was</p> <p>10 not made privy that they did it about Larios and</p> <p>11 Brandon.</p> <p>12 Q Were you ever made aware that they -- that</p> <p>13 the RAs -- strike that.</p> <p>14 But you were made aware that RAs do fill</p> <p>15 out observation notes?</p> <p>16 A I know that they do in general, yes.</p> <p>17 Q How do you know that?</p> <p>18 A We just over the years have talked about</p> <p>19 how they do their process.</p> <p>20 Q Did you ever -- did you ever know as to</p> <p>21 why observation notes were being filled out by</p> <p>22 Larios?</p> <p>23 A No.</p> <p>24 Q Did you --</p> <p>25 A I didn't know that they were.</p>
Page 58	Page 60
<p>1 Q Prior to -- at any point in time did you</p> <p>2 ever reach out to anyone from the dorms to find out</p> <p>3 how Fatima was doing in the dorms?</p> <p>4 A No.</p> <p>5 Q You never reached out to any of Fatima's</p> <p>6 or her boyfriend's RA's; right?</p> <p>7 A No.</p> <p>8 Q Never reached out to any of Fatima's --</p> <p>9 her -- strike that.</p> <p>10 Did you even know who her boyfriend was at</p> <p>11 the time?</p> <p>12 A No. I mean, I knew the name because I had</p> <p>13 written it down, so they told me his name, but I</p> <p>14 didn't know him personally or her.</p> <p>15 Q Does the name Brandon Finona sound</p> <p>16 familiar?</p> <p>17 A That's correct.</p> <p>18 Q Did you ever reach out to Brandon Finona</p> <p>19 or Fatima Larios' RAs to find out how they were</p> <p>20 doing in the dorms?</p> <p>21 A No.</p> <p>22 Q Did you know that the RAs filled out</p> <p>23 something called observation notes at the beginning</p> <p>24 of every semester?</p> <p>25 A Uh-huh.</p>	<p>1 Q I'm sorry, and I -- maybe there's a little</p> <p>2 confusion here, but you said you were aware that RAs</p> <p>3 do fill out observation notes?</p> <p>4 A Uh-huh.</p> <p>5 THE REPORTER: Yes?</p> <p>6 Q Is that a yes?</p> <p>7 A Yes.</p> <p>8 Q Okay. Were you -- were you aware that</p> <p>9 they filled out observation notes on all the</p> <p>10 students -- strike that -- the RAs fill out</p> <p>11 observation notes on all the students on their</p> <p>12 floors?</p> <p>13 A I'm not sure of how it's structured, but I</p> <p>14 know they do it.</p> <p>15 Q Okay. So -- but you didn't know whether</p> <p>16 or not the RAs actually filled out observation notes</p> <p>17 for Fatima Larios or Brandon Finona; right?</p> <p>18 A I did not know they did -- I was not aware</p> <p>19 that they had filled out any for either one of them.</p> <p>20 Q Did you assume that they did because --</p> <p>21 because the RAs were filling out observation notes</p> <p>22 on all the students in the dorms?</p> <p>23 A No.</p> <p>24 Q Did you ever ask -- did you ever tell</p> <p>25 Coach Stack or Shelley Dunbar to reach out to any of</p>

15 (Pages 57 to 60)

## DIRECT - SMITH (Gould)

<p style="text-align: right;">Page 61</p> <p>1 the housing staff in the dorms to find out how</p> <p>2 Fatima was doing in the dorms?</p> <p>3 A No.</p> <p>4 Q Did you ever reach out to Fatima</p> <p>5 Larios' -- strike that.</p> <p>6 Did you ever reach out to anybody in the</p> <p>7 dorms to find out how -- strike that.</p> <p>8 Did you ever reach out to anybody in the</p> <p>9 dorms to find out whether Fatima Larios was having</p> <p>10 any problems with other students?</p> <p>11 A No.</p> <p>12 Q Did you ever reach out to anybody in the</p> <p>13 dorms to ask them to monitor Fatima Larios'</p> <p>14 well-being?</p> <p>15 A No.</p> <p>16 Q Did you ever reach out to anyone in the</p> <p>17 dorms to report back to you on Fatima's well-being</p> <p>18 periodically?</p> <p>19 A No.</p> <p>20 Q Did you ever reach out to anyone in the</p> <p>21 dorms to warn them that Fatima Larios was reported</p> <p>22 to having potential Title IX -- strike that.</p> <p>23 Did you ever reach out to anyone in the</p> <p>24 dorms, whether it was a resident director, an AR, or</p> <p>25 the housing director to warn them that there were</p>	<p style="text-align: right;">Page 63</p> <p>1 there was an issue involving Fatima Larios that</p> <p>2 didn't involve Title IX, is there any reason why you</p> <p>3 would send the Title IX Coordinator an email about</p> <p>4 those concerns?</p> <p>5 A No. I would send the email to the</p> <p>6 Title IX Coordinator if I was concerned about</p> <p>7 something that I thought might -- she needs to</p> <p>8 investigate. That's what I did</p> <p>9 Q But you thought something that might</p> <p>10 involve a Title IX violation; right?</p> <p>11 A It might, yeah.</p> <p>12 Q Okay. Or do you just send Shelley Dunbar</p> <p>13 emails to handle work that you don't want to do?</p> <p>14 A No.</p> <p>15 Q Okay. So specific to potential Title IX</p> <p>16 violations?</p> <p>17 A It doesn't have anything to do with work I</p> <p>18 have to do. It's not my responsibility to</p> <p>19 investigate Title IX things.</p> <p>20 Q And I just want to be clear here. You</p> <p>21 thought that Fatima Larios may have been the victim</p> <p>22 of a Title IX violation; correct?</p> <p>23 A I thought that there were -- there were</p> <p>24 things that were -- that I needed to give to her to</p> <p>25 look into. I didn't make any value judgments nor</p>
<p style="text-align: right;">Page 62</p> <p>1 reports that Fatima Larios was the victim of a</p> <p>2 Title IX violation?</p> <p>3 A No, because I wasn't aware that she was a</p> <p>4 victim of a Title IX violation. I gave the</p> <p>5 information to the Title IX Coordinator.</p> <p>6 Q Okay. Well, but you gave the information</p> <p>7 to the Title IX Coordinator because you suspected</p> <p>8 that something happened with Fatima Larios that --</p> <p>9 strike that.</p> <p>10 You gave the information to the Title IX</p> <p>11 Coordinator because you believed that whatever the</p> <p>12 concerns were about Fatima Larios that there was a</p> <p>13 suspected violation of Title IX; right?</p> <p>14 MR. JOHNSON: Object to form of the</p> <p>15 question. Go ahead.</p> <p>16 A Not necessarily. I just knew that it was</p> <p>17 an issue that she would have to review to see what</p> <p>18 was going on. I was aware that there was an issue</p> <p>19 that needed to be reported under the mandatory</p> <p>20 reporting requirement.</p> <p>21 Q But the Title IX Coordinator is only</p> <p>22 responsible for investigating potential Title IX</p> <p>23 violations; right?</p> <p>24 A Correct.</p> <p>25 Q Okay. So if -- if there was an -- if</p>	<p style="text-align: right;">Page 64</p> <p>1 did I ask any questions to know.</p> <p>2 Q Something that was said to you suggested</p> <p>3 that you should send -- strike that.</p> <p>4 Something that was said to you by Coach</p> <p>5 Stack made you believe that it could be a Title IX</p> <p>6 issue and there could be a Title IX violation; right?</p> <p>7 A Perhaps, yeah.</p> <p>8 Q Okay. Or was it just something that</p> <p>9 was -- that was information that was provided to you</p> <p>10 and you didn't want to deal with it so you thought</p> <p>11 Shelley Dunbar might want to handle it?</p> <p>12 A No, that's not true.</p> <p>13 Q Okay.</p> <p>14 A I thought that the -- there were issues</p> <p>15 about the way that she was behaving, that she was</p> <p>16 covering up her arms and that the kids had concerns</p> <p>17 about her.</p> <p>18 Q Okay.</p> <p>19 A To me, that was -- those were things that</p> <p>20 might do that. And they mentioned the boyfriend, so</p> <p>21 I think toward that point, that's where it needed to</p> <p>22 be.</p> <p>23 Q And what I'm -- and when you left the</p> <p>24 meeting with Coach Stack, did you have any opinion</p> <p>25 as to whether Fatima Larios was wearing long-sleeved</p>

16 (Pages 61 to 64)

## DIRECT - SMITH (Gould)

Page 105	Page 107
<p>1 Q As an athletic director, if you were made</p> <p>2 aware that a -- one of your student-athletes was the</p> <p>3 victim or potential victim of a criminal offense,</p> <p>4 would you report that to the Chadron Police</p> <p>5 Department or campus security?</p> <p>6 A Yeah, it would be --</p> <p>7 MR. JOHNSON: Object, foundation.</p> <p>8 A I would be obligated to if it was a</p> <p>9 criminal offense.</p> <p>10 Q So if one of your student-athletes --</p> <p>11 strike that.</p> <p>12 If you suspected that one of your</p> <p>13 student-athletes was the victim of a criminal</p> <p>14 offense, you would have reported it to the Chadron</p> <p>15 Police Department or campus security; correct?</p> <p>16 MR. JOHNSON: Object, foundation.</p> <p>17 A Yeah, I'm not aware of any of those</p> <p>18 situations happening.</p> <p>19 Q But if -- if you are, I'm asking a</p> <p>20 hypothetical here. If you were aware -- strike</p> <p>21 that.</p> <p>22 As an athletic director, if you were made</p> <p>23 aware that one of your student-athletes may have</p> <p>24 been a victim of a criminal offense, crime in</p> <p>25 Nebraska, would you have reported that to Chadron</p>	<p>1 athletic director, have you ever reached out to a</p> <p>2 Title IX Coordinator at the university regarding a</p> <p>3 potential Title IX violation other than the Fatima</p> <p>4 Larios case?</p> <p>5 A Yeah, we did it with the wrestling hazing.</p> <p>6 Q Was that the only other incident?</p> <p>7 A That I'm aware of, yes.</p> <p>8 Q Do you know who was in charge of</p> <p>9 investigating that incident with the wrestlers?</p> <p>10 A Ted Tewahade who's our current Title IX</p> <p>11 Coordinator.</p> <p>12 Q Did you have any role in the investigation</p> <p>13 into Fatima's death?</p> <p>14 A No.</p> <p>15 Q Did you ever speak to Coach Stack, Aryn</p> <p>16 Grywusiewicz, Shelley Dunbar, Sherri Simons, or Jon</p> <p>17 Hansen about what you guys believed happened to</p> <p>18 Fatima Larios?</p> <p>19 MR. JOHNSON: I'm going to object to the</p> <p>20 form of the question.</p> <p>21 A Not that I recall.</p> <p>22 Q Do you recall speaking to anyone from the</p> <p>23 Chadron -- strike that.</p> <p>24 Do you recall speaking to any employees</p> <p>25 from Chadron State College about what you believe</p>
Page 106	Page 108
<p>1 Police Department or campus security?</p> <p>2 MR. JOHNSON: Object, foundation.</p> <p>3 A Yes, I would have if I thought it was a</p> <p>4 criminal offense.</p> <p>5 Q Do you know who Sherri Simons is?</p> <p>6 A I do.</p> <p>7 Q Who was Sherri Simons?</p> <p>8 A She's the Director of Housing. She was</p> <p>9 the Director of Housing.</p> <p>10 Q Okay. Was Sherri Simons the Title IX</p> <p>11 Director starting in January of 2015?</p> <p>12 A At some point she took over that role,</p> <p>13 yes.</p> <p>14 Q Had you ever forwarded any -- strike that.</p> <p>15 Have you ever reached out to Sherri Simons</p> <p>16 about potential Title IX violations that you became</p> <p>17 aware of?</p> <p>18 A No.</p> <p>19 Q Prior to January -- strike that.</p> <p>20 How many -- on how many occasions have you</p> <p>21 reached out to -- strike that.</p> <p>22 You were the athletic director at Chadron</p> <p>23 State College for how long?</p> <p>24 A In my fifth year now, so since 2013.</p> <p>25 Q Okay. So in the five years that you were</p>	<p>1 happened to Fatima Larios?</p> <p>2 A Not that I --</p> <p>3 MR. JOHNSON: Object to the form.</p> <p>4 A Not that I recall.</p> <p>5 Q Prior to this deposition -- strike that.</p> <p>6 I don't want to know what you spoke to</p> <p>7 your lawyer about, but I want to know on how many</p> <p>8 occasions have you met with your lawyers in</p> <p>9 preparation for this deposition?</p> <p>10 MR. JOHNSON: I'm going to object to that</p> <p>11 for purposes of preventing a waiver. We've had this</p> <p>12 discussion before. I'll let the witness go ahead</p> <p>13 and answer as long as there's an understanding that</p> <p>14 I'm not waiving my objection on that basis.</p> <p>15 A We met yesterday.</p> <p>16 Q How long was that meeting for?</p> <p>17 A Two hours.</p> <p>18 Q And was that the only other time you've</p> <p>19 met -- strike that.</p> <p>20 Was that the only time you had met with</p> <p>21 your counsel in preparation for this deposition?</p> <p>22 A Yeah, in preparation for this deposition.</p> <p>23 I met with George when he was up on campus, but we</p> <p>24 didn't really get -- we weren't at that point where</p> <p>25 we were talking about depositions.</p>

27 (Pages 105 to 108)

## DIRECT - SMITH (Gould)

<p style="text-align: right;">Page 109</p> <p>1 Q Were you ever made aware that the United 2 States Department of Education's civil rights -- 3 strike that. 4 Were you ever made aware that the United 5 States' Department of Education Office of Civil 6 Rights was investigating Chadron State College for 7 alleged failures in Title IX obligations? 8 A I was aware of that, yes. 9 Q When did you become aware of that? 10 A I don't recall when I was aware of that. 11 I know that we had to fill paperwork out for it. 12 Q Who asked you to fill out paperwork? 13 A I don't recall. 14 Q Are student-athletes required to live in 15 the dorms their freshmen year? 16 A Yes. 17 Q And are transfer students also required to 18 live in the dorms their freshman year? 19 A I don't know that answer. I don't know if 20 it's qualified by them being freshmen or what, so I 21 don't know the answer to that. 22 Q Had you ever spoken to Fatima Larios' 23 parents at any point in time? 24 A I met her father and uncle when she passed 25 and -- at her memorial service that we had for them.</p>	<p style="text-align: right;">Page 111</p> <p>1 CROSS-EXAMINATION 2 BY MR. JOHNSON: 3 Q Mr. Smith, do you have, as we sit here 4 today and without reference to any documents, a 5 detailed and specific recollection of your 6 conversation with Coach Stack on November 3 of 2014? 7 A I do not. 8 Q Is it possible that things were said in 9 that meeting that you have lost recall of? 10 A Yes. 11 Q If there is a conflict between 12 documentation with respect to that meeting and your 13 present recall of that meeting, would it be your 14 testimony that the documentation is likely more 15 accurate than your recall? 16 A I would say the documentation is more 17 likely. 18 MR. JOHNSON: That's all I have. 19 MR. GOULD: That's all I've got for you. 20 MR. JOHNSON: We'll read and sign. 21 (The deposition was concluded at 22 12:36 p.m.) 23 24 25</p>
<p style="text-align: right;">Page 110</p> <p>1 Q Okay. Did you speak with them? 2 A Just said hi and sorry for their loss. I 3 should qualify that. It wasn't the memorial service 4 that we had with the sit-down, it was a -- we did a 5 balloon thing out on the softball field, and they 6 were at that, and that's where I talked to them. 7 Q Have you ever spoken to any of Fatima's 8 softball player teammates about Fatima Larios? 9 A No. 10 Q Do you know which dorm Fatima Larios was 11 living in in the fall of 2014 semester? 12 A I'm assuming it was High Rise. 13 Q And what makes you think it was High Rise? 14 A That's where they found her, so -- 15 Q You never received -- strike that. 16 You've never obtained a Title IX 17 certification, have you? 18 A I have not. 19 Q And you never called campus security or 20 the Chadron Police Department regarding any concerns 21 reported to you about Fatima Larios; correct? 22 A No. 23 MR. GOULD: No further questions. 24 MR. JOHNSON: I want to get you on the 25 road. I have just a couple of questions.</p>	<p style="text-align: right;">Page 112</p> <p>1 J U R A T 2 3 I, JOEL SMITH, do hereby state under oath 4 that I have read the above and foregoing deposition 5 in its entirety and that the same is a full, true, 6 and correct transcription, with my noted corrections, 7 if any, of my testimony so given at said time and 8 place. 9 10 11 _____ 12 (Deponent's Signature) 13 _____ 14 (Date) 15 16 STATE OF NEBRASKA ) 17 ) ss. 18 COUNTY OF DOUGLAS ) 19 20 Subscribed and sworn to before me on this 21 ____ day of _____, 2018. 22 23 _____ 24 GENERAL NOTARY PUBLIC 25</p>

28 (Pages 109 to 112)

Page 113

## 1 CERTIFICATE

2 STATE OF NEBRASKA )  
3 ) ss.

4 COUNTY OF DOUGLAS )

5 I, Rachel McMenamin, General Notary Public  
6 in and for the State of Nebraska, do hereby certify  
7 that JOEL SMITH was by me duly sworn to testify the  
8 truth, the whole truth and nothing but the truth, and  
9 that the deposition by him as above set forth was  
10 reduced to writing by me.11 That the within and foregoing deposition  
12 was taken by me at the time and place herein  
13 specified and in accordance with the within  
14 stipulations, the reading and signing of the witness  
15 to his deposition having not been waived.16 That I am not counsel, attorney or relative  
17 of either party or otherwise interested in the event  
18 of this suit.19 IN TESTIMONY WHEREOF, I have placed my hand  
20 and notarial seal this 8th day of January, 2018.21 -----  
22 GENERAL NOTARY PUBLIC23 COST: \$ \_\_\_\_\_  
24  
25

Page 115

1 January 8, 2018

2 Mr. Thomas Johnson  
3 Attn: JOEL SMITH  
4 1500 Woodmen Tower  
5 1700 Farnam Street  
6 Omaha, NE 68102  
7 Dear Mr. Smith:8 You will recall on December 21, 2017, I took your  
9 deposition at 1500 Woodmen Tower, 1700 Farnam Street,  
10 Omaha, Nebraska dealing with the case of LISSETTE  
11 LARIOS ROOHBAKHSH, as personal representative of the  
12 ESTATE OF FATIMA LISSETTE LARIOS and on behalf of  
13 next of kin, Plaintiffs v. Board of Trustees of the  
14 Nebraska State Colleges and Chadron State College,  
15 Defendants. Your signature on the deposition was not  
16 waived.  
17 The manuscript of the transcript, which is an exact  
18 duplicate of the original, is ready for your review.  
19 I would appreciate it if you would read it, then sign  
20 the errata sheet and jurat page and return back to me  
21 in the enclosed envelope as soon as possible. You  
22 may keep the manuscript. Local practice allows a  
23 witness 30 days in which to read and sign the  
24 original and return same to the reporter.25 As you read the manuscript, please note any  
corrections you might have on the correction sheet  
enclosed with the manuscript giving the page number,  
line number, and the reason for the correction to be  
made as so indicated on the sheet.After reading and noting any corrections on the  
sheet, please sign the jurat page and also the  
correction page. Please sign both pages in front of  
a Notary Public and then have the Notary sign on the  
proper line.

Thank you for your cooperation in this matter.

Yours truly,

Rachel McMenamin  
cc: Mr. Antonio M. Romanucci  
Mr. Thomas Johnson

Page 114

1 IN THE UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEBRASKA3 LISSETTE LARIOS ROOHBAKHSH, as )  
4 personal representative of the )  
5 ESTATE OF FATIMA LISSETTE LARIOS )  
6 and on behalf of next of kin, ) Case No.  
7 and ) 8:17-cv-00031-  
8 NELSON LARIOS, as next of kin ) JFB-CRZ  
9 Plaintiffs, )  
10 v. )  
11 BOARD OF TRUSTEES OF THE NEBRASKA )  
12 STATE COLLEGES )  
13 and ) CERTIFICATE  
14 CHADRON STATE COLLEGE, ) OF REPORTER  
15 Defendants. )  
16 )  
17 )  
18 )  
19 )  
20 )  
21 )  
22 )  
23 )  
24 )  
25 )I, Rachel McMenamin, General Notary Public,  
do hereby certify that I served as the Court Reporter  
at the deposition of JOEL SMITH on December 21, 2017,  
at 1500 Woodmen Tower, 1700 Farnam Street, Omaha,  
Nebraska, in which the costs of reporting and  
transcribing the deposition were \$ \_\_\_\_\_, and that  
such costs are to be paid by counsel for the  
plaintiffs.I further certify that the original and  
copies were sent to: Original and 1 copy to  
Mr. Martin D. Gould; 1 copy to Mr. Thomas Johnson.Dated this 8th day of January, 2018.  
Delivered: \_\_\_\_\_GENERAL NOTARY PUBLIC  
Rachel McMenamin  
Thibault, Suhr & Thibault, Inc.  
6818 Grover Street  
Omaha, NE 68127  
(402) 331-2500

Page 116

1 DEPOSITION CORRECTIONS OF JOEL SMITH  
2 CASE: LARIOS v. BOARD OF TRUSTEES OF THE NEBRASKA  
3 STATE COLLEGES, ET AL.

4 Case No. 8:17-cv-00031-JFB-CRZ

5 PAGE LINE REASON FOR  
6 NO. NO. CORRECTION CORRECTION7 \* \* \*  
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10 \* \* \*  
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12 \* \* \*  
13 \* \* \*  
14 \* \* \*  
15 \* \* \*  
16 \* \* \*  
17 \* \* \*

SIGNATURE OF WITNESS

20 STATE OF NEBRASKA)

21 ) ss

22 COUNTY OF DOUGLAS)

23 Subscribed and sworn to before me this  
24 \_\_\_\_ day of \_\_\_\_\_, 2017.

25 GENERAL NOTARY PUBLIC

29 (Pages 113 to 116)

THIBAULT, SUHR & THIBAULT, INC.  
Omaha, Nebraska (402) 331-2500

1 DEPOSITION CORRECTIONS OF JOEL SMITH

2 CASE: LARIOS v. BOARD OF TRUSTEES OF THE NEBRASKA  
STATE COLLEGES, ET AL.

3 Case No. 8:17-cv-00031-JFB-CRZ

4 PAGE NO.	LINE NO.	CORRECTION	REASON FOR CORRECTION
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6	67	I did not	That is what I said

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17	*	*	*
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18

19

20 STATE OF NEBRASKA)

21 ) ss

22 COUNTY OF DOUGLAS)

23

24

25

SIGNATURE OF WITNESS

State of Nebraska -- General Notary  
KRISTOL CUMMINGS  
My Commission Expires  
January 11, 2022

22 Subscribed and sworn to before me this

23 26 day of January, 2018.

24

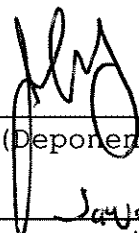
25

GENERAL NOTARY PUBLIC



## J U R A T

I, JOEL SMITH, do hereby state under oath that I have read the above and foregoing deposition in its entirety and that the same is a full, true, and correct transcription, with my noted corrections, if any, of my testimony so given at said time and place.

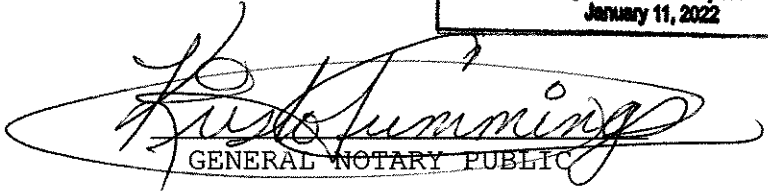
  
(Deponent's Signature)

January 26, 2018  
(Date)

STATE OF NEBRASKA       )  
  ) ss.  
COUNTY OF DOUGLAS    )

Subscribed and sworn to before me on this  
26 day of January, 2018.

State of Nebraska - General Notary  
KRISTOL CUMMINGS  
My Commission Expires  
January 11, 2022

  
GENERAL NOTARY PUBLIC